



2009-4734/S
223815

April 28, 2010

VIA FIRST CLASS MAIL

The Honorable Jocelyn G. Boyd
Interim Chief Clerk/Administrator
Public Service Commission of South Carolina
Post Office Box 11649
Columbia, South Carolina 29211

RE: Tega Cay Water Service, Inc.

Dear Ms. Boyd:

Pursuant to 26 S.C. Code Ann. Reg. 103-514 (Supp. 2009), Tega Cay Water Service, Inc. ("TCWS" or the "Company") hereby files with the Public Service Commission of South Carolina ("Commission") South Carolina Department of Health and Environmental Control ("DHEC") Consent Order, No. 09-042-W, executed September 30, 2009, a copy of which is enclosed herein.

As you are aware, Commission Regulation 103-514.C provides that wastewater utilities are required to file notice of a violation of a DHEC regulation which results in the issuance of a DHEC order within twenty-four hours of the utility's receipt of said order. 26 S.C. Code Ann. Reg. 103-514.C. Based upon the language set forth therein, TCWS interprets this regulation to require wastewater utilities to file administrative orders which are unilaterally issued by DHEC without the consent of the utility. Correspondingly, the Company does not interpret this regulation to require the filing of consent orders whereby the utility and DHEC reach a mutually agreeable determination regarding an alleged violation. Rather, in these instances, the utility has agreed with, and does not contest, the findings, terms and conditions of DHEC with respect to a violation and no further enforcement action is taken by DHEC.

Notwithstanding its interpretation of the Commission's regulation, TCWS recently became aware that ORS may not share the Company's interpretation of R. 103-514.C. Rather, it appears that ORS takes the position that all DHEC orders, whether consent orders, administrative orders or emergency orders, are required to be filed with the Commission and ORS. See Docket No. 2009-479-W/S, Tr. Vol. 6, p. 1020, l. 2 - p. 1021, l. 3. Although the Company is unaware of any Commission orders ruling on or interpreting the provisions of 103-514.C which would support ORS's stated position, TCWS is, nevertheless, submitting the enclosed consent order to the Commission and ORS at this time out of an abundance of caution.

By copy of this letter, I am providing a copy of this document to ORS. I would appreciate your acknowledging receipt of these documents by date-stamping the extra copies enclosed and returning the same to me via the enclosed self-addressed envelope.

If you have any questions or if you need any additional information, please do not hesitate to contact me.

Sincerely,

Bruce T. Haas

Enclosure

cc: South Carolina Office of Regulatory Staff

a Utilities, Inc. company Tega Cay Water Service, Inc.

BOARD
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Promoting and protecting the health of the public and the environment

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CAROLINA WATER SERVICE

October 1, 2009

**CERTIFIED MAIL 91 7108 2133 3936 2999 8722
RETURN RECEIPT REQUESTED**

Mr. Bruce Haas
P.O. Box 4509
West Columbia, SC 29171

RE: **Consent Order # 09-042-W**
Tega Cay Water Service, Inc./
Tega Cay WWTF #2 – NPDES Permit SC0026743
Tega Cay WWTF #3 & #4 – NPDES Permit SC0026751
York County

Dear Mr. Haas:

Enclosed, please find fully executed Consent Order # **09-042-W** for the above referenced facilities. The Order is considered executed on September 30, 2009.

Please note the Requirements outlined on pages eight and nine of the Order. Include the Consent Order number listed above on all documents submitted to the Department in settlement of this Order, including all checks remitted as payment of the civil penalty.

If you have any questions, please contact me at (803) 898-4327 or by e-mail at osborned@dhcc.sc.gov.

Sincerely,

Charles (Dennis) Osborne
Water Enforcement Division
Bureau of Water

cc: Adrienne Hayes, BOW – WP Enforcement/Compliance Section
Ann Proctor, Region 3 EQC, Lancaster
Harry Mathis, Region 3 EQC, Columbia Office

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: TEGA CAY WATER SERVICE, INC.
TEGA CAY WWTF #2 – PERMIT # SC0026743
TEGA CAY WWTF #3 & #4 – PERMIT # SC0026751
YORK COUNTY**

**CONSENT ORDER
09-042-W**

Tega Cay Water Service, Inc.(TCWS) (Respondent) owns and is responsible for the proper operation and maintenance of Tega Cay wastewater treatment facility (WWTF) #2, Tega Cay WWTF #3 and #4, and the wastewater collection systems (WWCS) and all appurtenances, serving the customers in the service areas of each WWTF in York County, South Carolina.

The Respondent: failed to comply with the effluent limits for fecal coliform as contained in its National Pollutant Discharge Elimination System (NPDES) Permit; allowed the discharge of untreated wastewater into the environment, including waters of the State, in a manner other than in compliance with a permit issued by the South Carolina Department of Health and Environmental Control (Department); and, failed to report a sanitary sewer overflow (SSO) to the Department within 24 hours, and failed to provide a written submission within five (5) days, after becoming aware of the circumstances.

The Department and the Respondent concur that in the interest of resolving this matter without delay and expense of litigation, the Respondent agrees to the entry of this Order, but neither agrees with nor admits the Findings of Fact or the Conclusions of Law; and therefore, agrees that this Order shall be deemed an admission of fact and law only as necessary for enforcement of this Order

by the Department.

FINDINGS OF FACT

Tega Cay WWTF # 2:

1. The Respondent owns and is responsible for the proper operation and maintenance of Tega Cay WWTF #2, located on Lake Wylie approximately four tenths (0.4) miles west of Secondary Road #99 and one (1) mile north of the intersection of Secondary Roads #30 and 196, which serves the customers of its service area in York County, South Carolina. The Respondent also owns and is responsible for the proper operation and maintenance of a WWCS that discharges into the WWTF.
2. The Department reissued NPDES Permit SC0026743 to the Respondent, authorizing the Respondent to discharge treated wastewater to the main channel of Lake Wylie in accordance with effluent limitations, monitoring requirements and other conditions set forth therein.
3. The Respondent reported violations of the effluent discharge limit for fecal coliform on its June 2008 and August 2008 discharge monitoring reports (DMRs). Mr. Bruce Haas, Regional Director for the Respondent, submitted comments on the DMR for the June 2008 monitoring period stating that the cause of the fecal violation was not known and that there was no upset at the plant.
4. On August 28, 2008, Department staff sent a Notice of Violation (NOV) to the Respondent, via certified mail, regarding the fecal coliform violation during the June 2008 monitoring period. The Respondent was requested to submit a written response to the Department within ten (10) days of receiving the NOV. The Department received a letter dated September 19, 2008, in response to the NOV.

5. On October 28, 2008, Department staff sent a NOV to the Respondent, via certified mail, regarding the fecal coliform violations during the August 2008 monitoring period. The Respondent was requested to submit a written response to the Department within ten (10) days of receiving the NOV. The Department received a letter dated November 6, 2008, in response to the NOV.
6. On November 13, 2008, the Department issued Construction Permit 35589-WW for the addition of a ultra violet (UV) disinfection system and an upflow final filter for phosphorus removal, along with all appurtenances necessary for WWTF #2.
7. On February 23, 2009, Department staff met with a complainant, and subsequently received a written complaint via electronic mail from the complainant, indicating that a Sanitary Sewer Overflow (SSO) occurred from a manhole located at 1007 Palmyra Drive on February 18, 2009. Pictures were taken on February 23, 2009, of the residue from the February 18, 2009, SSO. Pictures were also provided by the complainant of previous alleged SSO's.
8. On February 26, 2009, Department staff contacted an agent for the Respondent by electronic mail and asked that the report for the February 18, 2009, SSO, occurring at 1007 Palmyra Drive, be submitted to the Department along with a report on planned repairs done at WWTF #3 by March 3, 2009.
9. On March 2, 2009, the Department received a SSO report from an agent of the Respondent reporting an overflow occurring on March 1, 2009, from manhole # 115 located at 1089 Palmyra Drive. The report indicated that the cause of the SSO was a blockage between a lift station and the manhole. The estimated volume of wastewater released was five to ten thousand (5,000-10,000) gallons with impacts to waters of the State reported.

10. On March 3, 2009, the Department received two citizen's complaints of a SSO from a manhole, located at 1089 Palmyra Drive, that occurred on March 1, 2009. Department staff visited the site on March 3, 2009, and noted on Incident Reports that debris was still on the ground along with lime that had been applied to the spill area. Pictures of the March 1, 2009, SSO were provided to the Department by one of the complainants.
11. On March 3, 2009, the Department received a citizen complaint of a SSO from a manhole, located at 1007 Palmyra Drive, that occurred on March 1, 2009. Department staff visited the site on March 3, 2009, and noted on an Incident report that the complainant sent pictures of the SSO and a letter to the Respondent and the Department.
12. On March 3, 2009, the Department received a SSO report from an agent of the Respondent reporting an overflow occurring on March 3, 2009, from manhole #B-51, located at 2142 Manawa Lane. The report indicated that the cause of the SSO was operator error and stated that auxiliary switches were left off. The estimated volume of wastewater released was five hundred (500) gallons with impacts to waters of the State reported.
13. On March 5, 2009, the Department received a SSO report from an agent of the Respondent reporting an overflow occurring on March 5, 2009, from manhole #A-157, located at 1007 Palmyra Drive. The report indicated that the cause of the SSO was heavy rains and debris in pumps. The estimated volume of wastewater released was five thousand (5,000) gallons with impacts to waters of the State reported.
14. On April 13, 2009, Department staff sent a letter, via certified mail, to the Respondent addressing the continued SSO complaints from residents in Tega Cay. The letter asked the Respondent to submit a report for the SSO occurring at 1007 Palmyra Drive on February 18,

2009. It also requested that the Respondent submit a plan of action addressing the ongoing problems with the WWCS, and the SSO report to the Department within seven (7) days. The letter was received by an agent of the Respondent on April 20, 2009.

15. On April 21, 2009, the Department received a SSO report from an agent of the Respondent reporting an overflow occurring on February 18, 2009, from manhole #104, located at 1007 Palmyra Drive. The report indicated that the cause of the SSO was heavy rain and stated that the Respondent was unaware of the SSO at the time it occurred. The estimated volume of wastewater released and impacting waters of the State was unknown.
16. On May 4, 2009, the Department received a letter from the Respondent in response to the Department's April 13, 2009, letter and the February 18, 2009, SSO. The letter stated that a problem was identified and repairs had been completed at the manhole and sewer line in and around 1007 Palmyra Drive. The letter stated that impellers and wear plates were replaced in pump station #14, located downstream of 1007 Palmyra Drive to assure pumping capacity.

Tega Cay WWTF #3 & #4:

1. The Respondent owns and is responsible for the proper operation and maintenance of Tega Cay WWTF #3 and #4, located on Lake Wylie approximately one and one half (1.5) miles north of Secondary Road #195 and seven hundred and fifty feet (750) west of the existing marina, which serves the customers of its service area in York County, South Carolina. The Respondent also owns and is responsible for the proper operation and maintenance of a WWCS that discharges into the WWTF.
2. The Department reissued NPDES Permit SC0026751 to the Respondent, authorizing the Respondent to discharge treated wastewater to the main channel of Lake Wylie in accordance

with effluent limitations, monitoring requirements and other conditions set forth therein.

3. On November 13, 2008, the Department issued Construction Permit 35590-WW for the addition of a UV disinfection system and upflow final filter for phosphorus removal, along with all appurtenances necessary for WWTF #3 and #4.
4. On March 3, 2009, the Department received a SSO report from an agent of the Respondent reporting an overflow on March 1, and March 2, 2009, from manhole #I-52, located at 26049 Neptune's Landing. The report indicated that the cause of the SSO was structural repairs to an interior wall of WWTF #3 and that the estimated volume of wastewater released was fifteen to twenty-five thousand (15,000-25,000) gallons with impacts to waters of the State reported.
5. On March 23, 2009, the Department received a SSO report from an agent of the Respondent reporting an overflow occurring on March 20, 2009, from manhole, located at 9045 Spanish Wells. The report indicated that the cause of the SSO was "sewer main plug." The estimated volume of wastewater released was five hundred (500) gallons with impacts to waters of the State reported.
6. On July 29, 2009, Department staff held an enforcement conference with Mr. Bruce Haas and Mr. Mac Mitchell, both acting as agents for the Respondent, and discussed: effluent violations for fecal coliform; failure to meet the Schedule of Compliance dates outlined in the Respondent's NPDES Permits SC0026743 and SC0026751; SSOs and unauthorized discharges of untreated wastewater into the environment, including waters of the State; and, failure to orally report an unauthorized discharge to the Department within twenty-four (24) hours and failure to provide the Department a written submission within five (5) days after

becoming aware of circumstances. Mr. Haas stated that the cause of the fecal coliform violations was unknown. Mr. Mitchell stated that construction had begun for the UV upgrades, which are permitted together with phosphorus removal upgrades at WWTF #2 and WWTF #3 & #4. He also stated that the SSOs in the Palmyra Drive area were the result of repairs done to an interior wall at WWTF #3 and blockage in a sewer line. Mr. Haas stated that these problems were identified and repairs were made and there have been no further SSOs even though there have been significant rains in the area. The issuance of a consent order containing a schedule to complete construction of upgrades and a civil penalty was discussed.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (2008) and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41 (a) and (e) (Supp. 2008), in that it failed to comply with the effluent limits for Fecal Coliform contained in its NPDES Permit.
2. The Respondent violated Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.47 (e) (Supp. 2008) in that it failed to comply with the compliance schedule contained in its NPDES Permits.
3. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-90(a) (2008), in that it discharged untreated wastewater into the environment, including into waters of the State, in a manner other than in compliance with a permit issued by the Department.

4. The Respondent violated Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(L)(6) (Supp. 2008) in that it failed to report the noncompliant discharge to the Department within 24 hours after becoming aware of the circumstances.
5. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED, pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-50 (2008) and § 48-1-100 (2008), that the Respondent shall:

1. Within thirty (30) day of the date of execution of this Order, submit to the Department a customer service plan developed to provide timely notice to the customers of the affected area within the WWCS when an SSO occurs. The plan must include a detailed schedule for when notification will be made and by what means. The plan must be implemented immediately upon receipt of written approval from the Department.
2. Maintain documentation of all overflows from the WWCS and within twenty-four (24) hours after detection, orally report to the Department: 1) all wastewater spills which may pose a threat to human health and/or the environment, 2) all wastewater spills which enter surface waters of the State, and/or 3) all wastewater spills which exceed five hundred (500) gallons. Within five (5) days after detection, all wastewater spills referenced above shall be reported to the Department on and in accordance with DHEC SSO or Pump Station Failure Report Forms.

3. Within sixty (60) days of the date of execution of this order, submit to the Department three (3) copies of a preliminary engineering report (PER) detailing the upgrades necessary to comply with the final effluent discharge limits of NPDES Permits SC0026743 and SC0026751. The PER shall be administratively and technically complete and prepared in accordance with Standards for Wastewater Facility Construction, S.C. Code Regs. 61-67 (Supp. 2008).
4. Within sixty (60) days of the date of Department approval of the PER, submit to the Department three (3) copies of plans, specifications and an application for a Permit to Construct all upgrades necessary to ensure compliance with the effluent limitations of NPDES Permits SC0026743 and SC0026751. The plans and specifications must be administratively and technically complete and prepared in accordance with Standards for Wastewater Facility Construction, S.C. Code Regs. 61-67 (Supp. 2008).
5. Within sixty (60) days of the date of issuance of a Permit to Construct, begin construction of all necessary upgrades to ensure compliance with the final effluent limitations of NPDES Permits SC0026743 and SC0026751.
6. Within one hundred twenty (120) days of beginning construction, complete all construction and request final Approval to Operate from the Department's Region 3-Lancaster Environmental Quality Control Office.
7. Within thirty (30) days of the execution date of the Order, pay the Department a civil penalty in the amount of twenty-two thousand dollars (\$22,000.00).

THE PARTIES FURTHER STIPULATE that the Respondent shall pay additional civil penalties in the amount of five thousand dollars (\$5,000.00) if the Respondent fails to meet a schedule date

plus five thousand dollars (\$5,000.00) per month for each and every additional month the Respondent fails to meet that schedule date, unless the schedule date has been extended by mutual agreement through further amendment to this Consent Order.

All penalties due under this paragraph shall be made payable to the South Carolina Department of Health and Environmental Control.

All penalties, including those due and payable in the event of the Respondent's failure to comply with this Order, shall be in addition to any other remedies or sanctions which may be available to the Department by reason of the Respondent's failure to comply with the requirements of this Order.

PURSUANT TO THIS ORDER, all communication regarding this Order and its requirements, shall include the Order number and shall be addressed as follows:

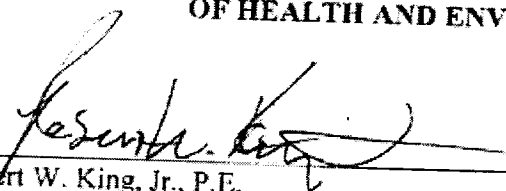
Charles (Dennis) Osborne
Water Pollution Enforcement
South Carolina DHEC
2600 Bull Street
Columbia, South Carolina 29201

Please include the Order number listed above on all submittals required under this Order, including all checks remitted as payment of the civil penalty.

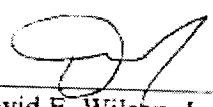
IT IS FURTHER ORDERED AND AGREED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), to include the assessment of additional civil penalties.

IT IS FURTHER ORDERED AND AGREED that this Consent Order governs only Tega Cay Water Service, Inc.'s liability to the Department for civil sanctions arising from the matters set forth herein and constitutes the entire agreement between the Department and Tega Cay Water Service,


FOR THE SOUTH CAROLINA DEPARTMENT
OF HEALTH AND ENVIRONMENTAL CONTROL


Robert W. King, Jr., P.E.
Deputy Commissioner
Environmental Quality Control

Date: 9/30/09

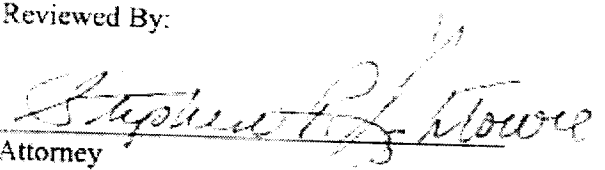

David E. Wilson, Jr., P.E.,
Bureau Chief
Bureau of Water

Date: 9-28-09


Glenn E. Trofatter, Director
Water Pollution Control Division
Bureau of Water

Date: Sept 25 2009

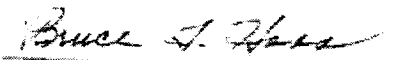
Reviewed By:


Attorney
Office of General Counsel

Date: 9/28/09

WE CONSENT:

TEGA CAY WATER SERVICE, INC.


Mr. Bruce Haas, Regional Director

Date: 9/25/09